

**RIGHT TO KNOW ADVISORY COMMITTEE
LEGISLATIVE SUBCOMMITTEE**

DRAFT AGENDA

July 19, 2012

9:00 a.m.

Room 438, State House, Augusta

Convene

1. Welcome and Introductions
Judy Meyer, Chair
2. Projects
 - A. Application of FOA laws to Maine Public Broadcasting Network
Mark Vogelzang, President & CEO
Maine Public Broadcasting Network
 - B. Status of e-mail addresses collected by schools and towns (Letter from Rep. Nelson related to parental privacy in Maine schools; Falmouth experience)
 - C. PL c. 264: email and other communications of elected/public officials (2011)
 - D. Use of technology in public proceedings (participation from remote locations)
 - E. Templates for drafting specific confidentiality statutes
3. Scheduling future meetings
4. Other?

Adjourn

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APRIL 12, 2011

Margaret Reinsch

Senior Legal Analyst

Judiciary Committee

Right to Know Advisory

Committee

The Maine Public Broadcasting Network is Maine's largest statewide news and public affairs organization with administrative offices and production facilities for radio and television in Lewiston, Bangor, Augusta and Portland. The station's transmitters and translators are located throughout the state delivering programs to nearly all of Maine citizens. The organization employs 119 staff members. According to the organization's IRS 990 Form ending 6/30/10, MPBN net assets were \$15,473,227. According to MPBN's own audit ending June 30, 2010 it received government support of \$1,954,235 from the State of Maine, \$1,574,366 from the Corporation for Public Broadcasting and government grants of \$33,016.

MPBN comes under the FOA Act as "the board of directors of a non-profit, non-stock private corporation that provides statewide noncommercial public broadcasting services and any

of its committees and subcommittees" and as such under FOA's public proceedings "means the transaction of any functions affecting any and all citizens of the state."

Cove Writers, Inc. and Hometown News Service are news companies producing columns for Maine and other state's newspapers. Hometown News Service is the longest serving continuous member of the State House Newspersons, the press corps with offices in the Cross Building. Both news organizations have as its president and chief journalist, Allen D. (Mike) Brown.

On December 15, 2010, Cove Writers, Inc. filed a FOA request to MPBN President James Dowe for certain financial information. (See Copy Enclosed). A FOA request is mandated by a reply within five working days. No reply came within that period or in subsequent weeks although several attempts to reach President Dowe were futile until February 2011 with a phone call from John F. Isacke, Vice President and Chief Financial Officer which was 45 days from the original request and 40 days in violation of the FOA Act. I requested of Mr. Isacke to put his response in writing which he did with letter dated 2/3/11. (See Copy Enclosed). Although certain MPBN financials were forwarded, two items (1) a copy of MPBN's current roster of full-time employees with their job titles and ranges for pay grades, and (2) a current copy listing part-time and/or contract employees who received IRS Form 1099 including the amounts they received were omitted.

According to Mr. Isacke the two omitted items do not apply under the FOA Act.

On March 25, 2011, Cove Writers, Inc. filed a FOA to P. James Dowe, President, MPBN, requesting a copy of MPBN's IRS Form 1099-Misc. listing persons and/or companies or other individuals/entities including the amounts received. There was no response after five days. In fact, there was no response at all.

After searching the relevant history files of the FOA Act and the Right to Know Advisory Committee which was created by Public Law 2005, chapter 631, and which has the oversight and responsibility of recommending changes to the Judiciary Committee, I can find no exception that any of the requests in the original letter of December 15, 2010 to Mr. Dowe are confidential and therefore exempt as stated by Mr. Isacke.

However, if Mr. Isacke's presumption is correct, then there is a gross conflict in that although MPBN comes under FOA's "Proceedings" as Mr. Isacke admits, it does not under "Public Records." Therefore, it challenges the general purpose of the Maine FOA as "transactions of any functions affecting any and all citizens of the state" and specifically and effectively labeling all MPBN public records as confidential. Mr. Isacke did respond to requests for some information under "Public Records" but chose to withhold other information under "Public Records" therefore "picking and choosing" what public records to reveal to the public.

MPBN is Maine's only "non-profit corporation that provides statewide noncommercial public broadcasting services" and therefore specifically under Maine's Freedom of Access Act.

The Right to Know Advisory Committee should review MPBN's proprietary stance on Public Records in view of its tremendous media influence in Maine and as the recipient of nearly two million annually of taxpayer funds. If Mr. Isacke is correct then MPBN is under Maine's FOA Act in name only and escapes public access to all of its public records or whatever it chooses to reveal.

On February 17, 2011 a column bylined by Mike Brown was printed in the Ellsworth American (**See Copy enclosed**) revealing financials of MPBN ending June 2009 with the questions of MPBN's cavalier illegal time responses and why if the State of Maine taxpayers were contributing nearly \$2 million to a non-profit, private news corporation then why it did not come fully under the FOA Act?

Efforts are current and continuing to obtain full compliance from MPBN but so far it refuses to release requested information under Maine's Freedom of Information law claiming confidentiality of personnel records.

Enclosures:

Allen D. Brown

Allen D. (Mike) Brown, President

Hometown News Service

State House Station 162

Augusta, ME 04333

Phone 287-4899

E-mail brown@midcoast.com

COVE WRITERS, INC.

INDEPENDENT SYNDICATION
78 CLIFF ROAD, SATURDAY COVE
NORTHPORT, MAINE 04849

TELEPHONE (207) 338-3419

FAX (207) 338-4992

December 15, 2010

Jim Dowe, President
Maine Public Broadcasting Network
1450 Lisbon Street
Lewiston, Maine

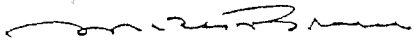
Dear Mr. Dowe:

Pursuant to Title 1, MRSA, Chap. 13, Maine's Freedom of Access Law, I am requesting the following information:

- 1.) The most recent audited financial statement of MPBC.
- 2.) A copy of MBPC's latest filed IRS 990 form.
- 3.) A copy of MPBC's current roster of full-time employees with their job titles and ranges for pay grades.
- 4.) A current copy listing MPBC's part-time and/or contract employees who received IRS Form 1099 including the amounts they received.
- 5.) The names of current MPBC Board of Trustees and their terms of office.

Thank you Mr. Dowe for your past cooperation and prompt reply to the above requests. Also if you have any comment on content and activity of your organization please include it your reply.

Sincerely,



Allen D. (Mike) Brown, President
Cove Writers, Inc.
Hometown News Service



Maine Public Broadcasting Network

1450 Lisbon Street, Lewiston, Maine 04240-3595 • 800-884-1717 • 207-783-9101 • Fax 207-783-5193

February 3, 2011

Allen D. Brown
Cove Writers, Inc.
78 Cliff Road, Saturday Cove
Northport, Maine 04849

Re: Your request of December 15, 2010

Dear Mr. Brown,

It was nice speaking with you on the phone yesterday. As I stated during our conversation, I do not believe that the items you have requested are all subject to Title 1, MRSA, Chapter 13 – Maine's Freedom of Access law. My beliefs in that regard are as follows:

- As I told you, I am not a lawyer, but my simple reading of Chapter 13 is that it pertains to Public Proceedings and to Public Records.
- With respect to Public Proceedings, the work of MPBN's Board of Directors, its committees and subcommittees are specifically included in §402 2. E. MPBN maintains a public file of all such meetings and those files are available for review, upon request, in our Lewiston office as provided under the Freedom of Access law.
- As it pertains to Public Records, it is my belief that MPBN is neither an agency of the state nor are its employees public officials. As such, it is my belief that the Public Records provisions of Chapter 13 do not apply to MPBN.

Within that context, my response to each of your questions follows:

1. Enclosed, for your convenience, is a copy of MPBN's audited financial statements for the years ended June 30, 2010 and 2009. This document is made available to the public on our website, www.mpbnet.net.
2. Enclosed, for your convenience, is a copy of MPBN's draft Form 990 for the year ended June 30, 2010. I will let you know if any substantive changes are made prior to its filing which is due February 15, 2011. This document is also made available to the public through both the IRS website and on MPBN's website, www.mpbnet.net.
3. The roster of full-time employees, their job titles and salary ranges is not a document we normally share and is not enclosed. However, the Form 990

Television

• Radio

• Education

• Internet

With offices and studios in Bangor, Lewiston and Portland

mpbnet.net

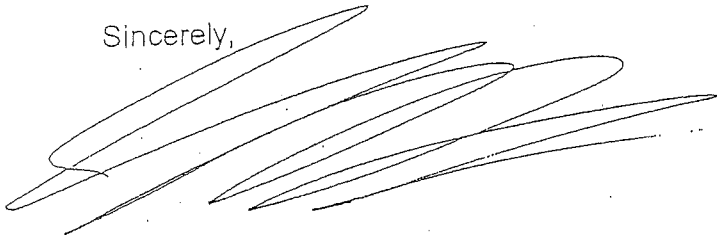
- referred to above discloses for all employees who are compensated at \$100,000 or higher, their name, title and total compensation.
4. The listing of part-time and/or contract employees who received an IRS Form 1099 and the amounts they received is not a document we normally share and is not enclosed.
 5. A listing of our Board of Trustees is also made available to the public on our website, www.mpbn.net. A listing, including their terms of office is enclosed for your convenience.

I again apologize for the tardiness of my reply to your request.

If there is anything else I can do for you, do not hesitate to contact me directly. I have enclosed one of my business cards. It contains my direct contact information.

When and if an article results from this information response, I would appreciate receiving a copy. Thank you.

Sincerely,



John F. Isacke
Vice President and Chief Financial Officer

Cc: Alan L. Baker, Publisher, The Ellsworth American (w/o Enc)
P. James Dowe, President, Maine Public Broadcasting Network (w/o Enc)

MPBN's Violation of the Maine FOA Act

The Maine Freedom of Access Act lies at the heart of a democratic government. It grants the people of this state a broad right of access to public records with transparency, a fundamental principle of the Act. Within its many statute definitions is the right to a filer's response within five days.

On December 15, 2010 filer Hometown News Service requested of James Dowe, president of Maine Public Broadcasting Network, certain financial records of MPBN under the Freedom of Access Act. The response date was overdue on January 7, 2011 and the filer contacted the MPBN office and was informed that the request had been forwarded to the financial department. On January 17, there was still no response. As the filer contemplated court action under the Act there was a phone response on 2/3/11/ from John F. Isacke, MPBN vice president and chief financial officer, which was 45 days from the original response and some forty days in violation of the Freedom of Access Act.

MPBN comes under the Act's public proceedings definitions as "the board of directors of a non-profit, non-stock, private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees."

Although VP Isacke provided hard copy duplicates of certain financials—IRS 990 for 2009 and Audited Report, 2010 - he wrote in a cover letter that, "I do not believe that all the items requested are subject to the FOA Act." He further stated, "I am not a lawyer, but my simple reading of Chapter 13 as it pertains to Public Records is that neither is MPBN an agency of the state nor are its employees public officials."

What VP Isacke was referring to in the filers request was (1) a copy of MPBN's full-time employees with their job titles and ranges for pay grade and (2) a listing of contract employees who received IRS Form 1099 and the amounts they received. These two items have been in the filer's request to MPBN for nearly a decade and fully furnished even with specific names and specific salary although only a salary range was requested.

MPBN is one of the largest media corporations in Maine employing 119 employees and therefore has considerable impact on information, ideas and news content in programs provided to nearly all of Maine citizens through transmitters throughout the state.

MPBN is a \$15.5 million tax-exempt corporation according to its 2009 IRS report. A substantial revenue stream is public support, that is, taxpayer funds. In its 2010 revenue, the State of Maine, via taxpayers, contributed \$1,954,235 and the Corporation for Public Broadcasting, via taxpayers, \$1,574,366, other government grants of \$33,016, via taxpayers, for a total of \$3,561,617. The MPBN membership revenue was \$3,566,370 or only \$4,753 more than public taxpayer support.

According to its 2010 audit, the reported 118 anonymous (so stated VP Isacke) employees received \$5,001,699 in salaries and benefits. The only employee identified in the IRS 990 Form was President James Dowe with a salary of \$156,325 plus \$7,328 in retirement and other deferred compensation.

Phone conversations with VP Isacke indicated that the reason for the "delay" of response - he did not admit to violation of the Act - was that he was "too busy." Also, he objected to sending hard copy data when the internet was available. However, in its self-praising organization overview on its IRS 2009 Form it states precisely, "Any member of the general public can also request either verbally or in writing that these documents be sent to them."

As to VP Isacke's "simple reading" of the FOA Act that MPBN is not subject to Public Proceedings and Public Records under the Act in regard to employee salaries and pay ranges - that private opinion appears to be in conflict with the term "public proceedings meaning the transactions of any function affecting any and all citizens of the state." The fact that Maine citizens contributed \$1,954,235 to support MPBN salaries and benefits in 2010 should be considered a function.

Apparently there has been some shading in the transparency of MBPN since the open and full cooperation of MPBN President Jim Dowe through the years. The fact that MPBN was 45 days late and in violation of the FOA Act should be of considerable concern of all citizens and

especially the state legislature which appropriates millions in support of MPBN programming when the state itself has financial concerns of providing its citizens with basic needs of subsistence livability with the challenge of declining revenues.

Nothing so darkens the transparency of government and its ancillary providers of public information than the shadows of silence.

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James B. Zimpritch

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pierceanwood.com

June 26, 2012

Senator David R. Hastings, III
Chair, Right to Know Advisory Committee
c/o Office of Policy & Legal Analysis
13 State House Station
Augusta, ME 04333-0013

Re: Maine Public Broadcasting Corporation

Dear Senator Hastings:

We understand that the applicability of the Freedom of Access Act to our client Maine Public Broadcasting Corporation may be on the Right to Know Advisory Committee's agenda for an upcoming meeting of the Committee, as a result of a 2010 request for information by Allen D. (Mike) Brown (now deceased) on behalf of Cove Writer's, Inc. and Hometown News Service.

That request sought five items:

1. The most recent audited financial statement of MPBC.
2. A copy of MPBC's latest filed IRS 990 form.
3. A copy of MPBC's current roster of full-time employees with their job titles and ranges for pay grades.
4. A current copy listing MPBC's part-time and/or contract employees who received IRS Form 1099 including the amounts they received.
5. The names of current MPBC Board of Trustees and their terms of office.

MPBC provided items 1, 2 and 5, all of which MPBC regularly makes public. It did not provide items 3 and 4 since, as noted below, the "public records" definition in the Freedom of Access Act does not extend to the records of a private corporation such as MPBC.¹

¹ Separately, we point out that disclosure of the information requested in items 3 and 4 would be a violation of Maine law. Maine's personnel file law, 26 MRSA Section 631, requires employers to keep confidential the contents of personnel files. Employee compensation falls squarely within the definition of materials within a "personnel file." The statute provides in pertinent part as follows:

On behalf of our client, Maine Public Broadcasting Corporation, we would like to address the application of the Maine Freedom of Access Act, 1 MRS §§ 400 *et seq.* (the "Act") to Maine Public Broadcasting Corporation in greater detail, as set forth below.

I. Maine Public Broadcasting Corporation is a private non-profit corporation; its officers are not "public officials"

Maine Public Broadcasting Corporation ("MPBC") is a private, non-profit, tax-exempt corporation that carries out its mission as a charitable entity similar to thousands of other non-profits here in Maine. It does business under the assumed names "Maine Public Broadcasting Network" and "MPBN."

MPBC has a state-wide public board of trustees who provide volunteer lay leadership and governance for the organization. And its mission is clear:

Every day, the Maine Public Broadcasting Network connects the people of Maine to each other and to the world through the open exchange of information, ideas and cultural content. As Maine's premier independent media resource, we create exceptional opportunities for the communities we serve to engage with critical issues, compelling stories and quality entertainment.

MPBC was incorporated on February 7, 1992 by the filing of Articles of Incorporation with the Secretary of State pursuant to the Maine Nonprofit Corporation Act, Title 13-B. It sought and obtained a determination from the Internal Revenue Service (IRS) that it qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

But MPBC is not, and never has been, an "agency" or "political subdivision" of the State or a governmental entity, and its officers are not, and never have been, "public officials" of the State of Maine. That is clear.

II. Background on the 1992 Unification of Public and Private Noncommercial Educational Broadcasting in Maine

In 1961 Colby-Bates-Bowdoin Educational Telecasting Corporation, known as "WCBB," was founded as an independent, private, non-profit organization. In 1992, it was a free-standing private tax-exempt organization.

For the purpose of this section, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee that the employer has in the employer's possession. Records in a personnel file may be maintained in any form including paper, microfiche or electronic form. The employer shall take adequate steps to ensure the integrity and confidentiality of these records. (Emphasis added.)

Disclosing such confidential personnel file information to a news outlet would clearly be inconsistent with, and in violation of, the personnel file law, and would be the polar opposite of MPBC taking "...adequate steps to ensure the ...confidentiality of [employee personnel] records."

Commencing in 1963 the University of Maine System ("UMS") established a public broadcasting network known as Maine Public Broadcasting Network or MPBN. Unlike WCBB, it was not a separate entity, but rather a functional "division" of UMS. (The former MPBN, operated as a division of UMS, is referred to in this letter as "MPBN-UMS.")

In 1992 WCBB and MPBN-UMS were unified in a public and private noncommercial educational broadcasting entity. The unification was authorized by Chapter 848 of the Public Laws, Second Regular Session, 1991 (the "Enabling Act"), which became effective on April 9, 1992. The Enabling Act stated:

"[UMS] may transfer the assets and liabilities associated with [MPBN-UMS]...to a Maine **nonprofit, nonstock, private corporation**, referred to in this Act as 'the transferee corporation,' formed pursuant to the Maine Revised Statutes, Title 13-B for the purpose of unifying the operations of [MPBN-UMS] and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, into a noncommercial statewide public broadcasting network." (Emphasis added.)

The combination was accomplished as follows: (1) MPBC was formed, (2) the assets and liabilities of MPBN -UMS were transferred to MPBC, and (3) WCBB merged into MPBC. As a result, the broadcasting assets and liabilities of MPBN-UMS and WCBB were combined in a new private corporation, MPBC. MPBC then adopted the name "Maine Public Broadcasting Network" as an assumed name for operational purposes.

The Enabling Act, by permitting UMS to dispose of the assets and associated liabilities of MPBN-UMS, relieved the State of funding obligations for MPBN-UMS, which had formerly been part of the annual educational appropriation for UMS. To complete this financial shift, the Enabling Act stated:

"An annual appropriation for operating, constructing, equipping, maintaining, improving and replacing facilities of the corporation [Maine Public Broadcasting Corporation] must be made in amounts sufficient to insure delivery of the broadcast services throughout the state." Enabling Act §3.

Parenthetically, we would point out that the Legislature has not fully honored this obligation. In the most recent legislative session, after the Administration proposed eliminating the entire amount of MPBC's appropriation, the Legislature voted to restore funding for next year, albeit at a lower level, \$1.7 million, significantly less than the \$2.5 million it will cost MPBC to provide statewide non-commercial public broadcasting services as contemplated by the Enabling Act.

In MPBC's current fiscal year, MPBC's budget is \$11.2 million, of which only \$1.9 million, or 17%, was received from the state of Maine.

III. Applicability of the Freedom of Access Act to MPBC

In recognition of the fact that MPBC was to receive financial support from the State, and was the transferee of public assets (subject to related liabilities), Section 1 the Enabling Act also amended Section 402(2) of the Freedom of Access Act to expand the definition of "public proceedings," to include transactions by the following:

"E. The Board of Directors of a nonprofit, nonstock private corporation that provides statewide non-commercial public broadcasting services and any of its committees and subcommittees." (Emphasis added.)

As you know, the Freedom of Access Act generally covers legislative committees and subcommittees, boards or commissions of state agencies or authorities; boards, commissions, agencies, or authorities of any county, municipality, school district or regional or other political or administrative subdivision; and associations, the membership of which is composed of exclusively of the foregoing entities. In contrast, MPBC is the only private corporation that is subject in any way to the Freedom of Access Act.

However, Section 1 of the Enabling Act amended the Freedom of Access Act only in Section 402(2) ["Public Proceedings"], leaving untouched the definition of "public records" in the Freedom of Access Act. Thus, "Public Records" continue to be defined to mean:

"... any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains info related to the transaction of public or governmental business...." 1 MRSA §402(3). (Emphasis added.)

The Freedom of Access Act was carefully amended to reach the proceedings of the board of directors (and committees and subcommittees) of MPBC, but omitted any change to the definition of "public records." As a result, the "public records" aspect of the Freedom of Access Act was, and remains today, limited to agencies or public officials of the State or its political subdivisions, and does not apply to MPBC.

Section 8 of the Enabling Act included a further "general" provision relating to the Freedom of Access Act, stating:

"In recognition of the fact that the transferee corporation will receive public funds and public assets the transferee corporation [MPBC] is subject to the Maine Revised Statutes, Title 1, Chapter 13, and must adopt bylaws and policies to implement the requirements of that chapter."

MPBC promptly adopted, on June 24, 1992, (a) Bylaw provisions expressly requiring meetings of the Board and of any committee of the Board to be open to the public and requiring notice to the public of all such meetings, and (b) a "*Freedom of Access Policy*" (copy attached) to implement the Freedom of Access provisions of the Enabling Act.

MPBC's *Freedom of Access Policy* expressly specified public access to certain documents as follows:

"Public Records: All documents distributed to the Board of Trustees which are not the subject of discussion in executive session shall be made available to members of the public upon request. Requests for copies shall be handled expeditiously and with courtesy. All such documents, in addition to other materials required by the Federal Communications Commission, shall be available for public inspection in the Public File that shall be maintained at MPBC's general offices." (Emphasis added.)

The Bylaws and Policy appropriately implemented and respected Section 8 of the Enabling Act, while also honoring the limited and specific changes the Enabling Act made in the definition of "public proceedings" (and not "public records") in the Freedom of Access Act.

This different treatment of proceedings and records was clearly intentional, and purposeful.

First, treating all records of MPBC as "public records" would clearly be overkill because MPBC is simply not a state agency. It is a non-profit organization formed as a private corporation.

Second, bear in mind the unique journalistic role of MPBC. It is a highly visible, non-commercial, public broadcasting news organization. Its radio and tv stations have hundreds of thousands of Mainers who tune in each week for its national programming from NPR and PBS and its regional news stories. Its reporters regularly engage in independent investigative journalism, interview individuals involved in matters of public interest, maintain journalistic notes and work papers, and prepare reports for broadcast. It would turn MPBC's mission upside down if, for example, its journalistic notes and work papers constituted "public records" that could be obtained by any person. It would have a dramatic chilling effect on the ability of MPBC to carry out its journalistic mission. It would curb, rather than enhance, MPBC's ability to engage in transparent journalism.

And, as you know, MPBC's own reporter, AJ Higgins serves as a member of the Right to Know Advisory Committee, and MPBC has a history of supporting freedom of the press and efforts to strengthen public media in the State.

In legal and statutory construction terms, the "specific" provisions of Section 1 of the Enabling Act, amending only the definition of public "proceedings," control over the "general" provisions of Section 8 of the Enabling Act. Against that backdrop, MPBC's Bylaws and Policy

clearly bridge the two, and harmonize the two provisions. Any other construction would be illogical and unsupportable.

Put differently, if Section 8 of the Enabling Act were read literally to make the entire Freedom of Access Act applicable to MPBC, treating all its records as "public records," treating its employees (or perhaps only its officers and directors) as "public officials," and treating MPBC as an "agency" of the state, then there would have been no reason whatsoever to adopt Section 1 of the Enabling Act.

As noted above, the Enabling Act's amendment of the "public proceedings" definition in the Freedom of Access Act, and failure to similarly amend the "public records" definition in that Act, was intentional, purposeful, and wise.

IV. Other publicly available information and public access

We would also point out that MPBC already has a high standard for transparency to the public and its donors in place, in part because it is a recipient of federal funds through the Corporation for Public Broadcasting. 47 U.S.C §§ 396 *et seq.* requires all recipients of funding from the Corporation for Public Broadcasting to certify their continued compliance with federal open access in rules in five specific areas:

1. Meetings which must be open to the public (Section 396(k)(4);
2. Financial information which must be made available to the public (Section 396(k)(5);
3. Community advisory boards which must be established by (Section 396(k)(8);
4. Equal Employment Opportunity ("EEO") regulations and reporting requirements which must be observed (section 396(k)(11); and
5. Donor list and public activities requirements (Section 396(k)(12).

The Corporation for Public Broadcasting requires station grant recipients to certify their continued compliance with the requirements of these sections prior to receiving any grant funds. See generally <http://cbc.org/stations/certification>. MPBC fully complies with these requirements.

In addition, MPBC offers its financial information online, giving easy access to members of the public to its annual IRS Form 990 tax return (Return of Organization Exempt from Income Tax), as well as its audited financial statements and operating budgets for the current and past years. <http://www.mpbn.net/About/MPBNFinancialReports/MPBNBudget.aspx>

V. Conclusion

As a private, non-profit, tax-exempt organization engaged in noncommercial educational broadcasting and an important independent journalistic voice, MPBC is committed to compliance with all applicable federal and state laws governing its open access and publicly available information.

June 26, 2012

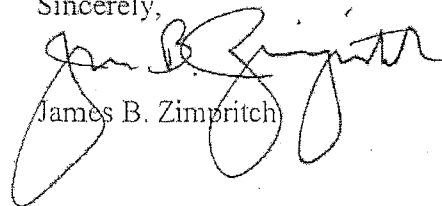
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MPBC believes that it has a long and honorable track record of complying with these requirements.

MPBC further believes that, for the reasons set forth above, MPBC was not required to comply with Mr. Brown's 2010 request for information regarding MPBC's roster of full-time employees with their job titles and ranges for pay grades and listing of MPBC's part-time and/or contract employees who received IRS Form 1099 including the amounts they received.

And at a broader level, MPBC strongly believes that any attempt to alter the delicate balance that was struck in 1992 over the applicability of the Freedom of Access Law to MPBC would be bad public policy, would interfere with MPBC's devotion to Freedom of the Press, and would be unalterably opposed by MPBC. Given MPBC's role and its track record of transparency, such an exercise would be tantamount to "a solution in search of a problem."

Sincerely,



James B. Zimpritch

JBZ/mka

cc: Members of the Right to Know Advisory Committee
Mark Vogelzang, President and CEO
Henry Schmelzer, Chairman of the Board

6/24/92

MPBC FREEDOM OF ACCESS POLICY

Background:

The legislation authorizing the transfer of MPBN assets to MPBC included the requirement that MPBC be subject to Maine's Freedom of Access Law. These policies are proposed to implement that requirement.

Policy:

Public Meetings: In accordance with 1 MRSA Chapter 13, Subchapter 1, the meetings of the Maine Public Broadcasting Corporation Board of Trustees shall be open to the public. Public notice of such meetings shall be given over the public radio and television stations of MPBC no less than three days prior to the meeting.

Executive Sessions: Executive Sessions are limited to deliberations on subjects which are allowed by law and shall not otherwise be used to defeat the purposes of the Freedom of Access Law.

In accordance with 1 MRSA s/s 405, Executive Sessions of the MPBC Board of Trustees may be called by a motion indicating the precise nature of the business of the executive session and approved by three-fifths of the Trustees present and voting.

Public Records: All documents distributed to the Board of Trustees which are not the subject of discussion in executive session shall be made available to members of the public upon request. Requests for copies shall be handled expeditiously and with courtesy. All such documents, in addition to other materials required by the Federal Communications Commission, shall be available for public inspection in the Public File that shall be maintained at MPBC's general offices.

CHAPTER 847

H.P. 1684 - L.D. 2364

An Act to Clarify the Funding of State Mandates

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the breadth of the present law that requires the State to fund state mandates is having a negative impact on legislation requested by municipalities; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §2, sub-§3, as amended by PL 1991, c. 429, §1 and c. 591, Pt. III, §23, is repealed.

Sec. 2. 20-A MRSA §2-A, first ¶, as enacted by PL 1991, c. 429, §2, is amended to read:

A school administrative unit may seek a waiver allowing the unit to delay compliance with a state mandate, as defined in section 2, subsection 3 Title 30-A, section 5684, as follows:

Sec. 3. 20-A MRSA §2-A, sub-§6, as enacted by PL 1991, c. 429, §2, is amended to read:

6. Application; repeal. This section is repealed on July 1, 1992. Until that time, notwithstanding any other provision of law, this section governs the waiver or deferral of state mandates as defined in section 2, subsection 3 Title 30-A, section 5684.

Sec. 4. 30-A MRSA §5684, last ¶, as enacted by PL 1989, c. 922, is amended to read:

For the purposes of this section, "state mandate" means any state regulatory or statutory action that requires county or municipal government, or a unit of county or municipal government, to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a state or federal court or any legislation necessary to comply with a federal mandate. The State is not required to fund any state mandate that is necessary to comply with the Maine Human Rights Act; ensures due process; creates, expands or amends criminal laws or civil infractions or penalties enforced by municipalities; increases the minimum wage; results from en-

actment of legislation introduced at the official request of a municipality or municipalities; or imposes routine obligations, when the combined statewide cost of all such mandates in any calendar year is less than .001 of the total amount of property taxes collected in the State during the previous year.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 9, 1992.

CHAPTER 848

S.P. 945 - L.D. 2409

An Act to Improve Educational Public Broadcasting Statewide

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the further development and enhancement of educational noncommercial radio and television programming for Maine people throughout the State is vital to the State's interest; and

Whereas, there exist present opportunities to unify public and private noncommercial educational broadcasting in this State; and

Whereas, encouragement and assistance to take advantage of these opportunities is essential to the advancement of educational noncommercial radio and television broadcasting in this State; and

Whereas, legislation is necessary to authorize the University of Maine System to take advantage of the opportunity to unify public broadcasting in this State for the benefit of all the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §402, sub-§2, as amended by PL 1989, c. 878, Pt. A, §1, is further amended to read:

2. Public proceedings. The term "public proceedings" as used in this subchapter ~~shall mean~~ means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees;

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Technical College System and any of its committees and subcommittees;

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; and

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; and

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide non-commercial public broadcasting services and any of its committees and subcommittees.

Sec. 2. 20-A MRSA §852, sub-§3 is enacted to read:

3. Transfer of assets and liabilities. The University of Maine System may transfer any assets and liabilities acquired pursuant to this section in order to unify operation in a nonprofit, nonstock private corporation. The University of Maine System retains a reversionary interest in the university's assets as provided for in the articles of incorporation of that corporation. An annual appropriation for operating, constructing, equipping, maintaining, improving and replacing facilities of the corporation must be made in amounts sufficient to ensure delivery of broadcast sources throughout the State.

Sec. 3. Transfer authorized. Pursuant to the Maine Revised Statutes, Title 20-A, section 852, subsection 3, the University of Maine System may transfer the assets and liabilities associated with the Maine Public Broadcasting Network, operated by the system, to a Maine nonprofit, nonstock private corporation, referred to in this Act as "the transferee corporation," formed pursuant to the Maine Revised Statutes, Title 13-B for the purpose of unifying the operations of the Maine Public Broadcasting Network and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, into a noncommercial statewide public broadcasting network.

The transfer may occur only if the transferee corporation has a board of trustees that includes the chan-

cellor of the University of Maine System; 3 members representing the Board of Trustees of the University of Maine System; the President of Bates College; the President of Bowdoin College; the President of Colby College; and not fewer than 8 nor more than 12 public trustees elected by the board in the manner prescribed in the corporation's bylaws. The president of the transferee corporation is a nonvoting member of the board.

The Maine Revised Statutes, Title 13, section 3062 does not apply to the transfer of assets authorized in this section. The Treasurer of the University of Maine System may execute and deliver any document or instrument and take any action necessary or convenient to carry out the transfer of assets and liabilities authorized in this section.

Sec. 4. Budget estimates. The transferee corporation shall prepare and submit its appropriations requirements for consideration pursuant to the Maine Revised Statutes, Title 5, section 1665 in the same manner as public higher education institutions of the State. The appropriation requirements are limited to the costs of constructing, equipping, maintaining, improving and replacing the buildings and equipment for its transmitting facilities, production facilities, master control centers and interconnection equipment that provide signals to its transmitters or other distribution systems, and of operating its transmitting facilities so that the Legislature may appropriate sufficient funds to that corporation for those purposes. Appropriations must be made in amounts to be determined by the Legislature for those purposes.

Sec. 5. Personnel. The transferee corporation shall protect certain rights of Maine Public Broadcasting Network employees covered by collective bargaining agreements as of March 1, 1992 as follows.

For those Maine Public Broadcasting Network employees who were employed on March 1, 1992 and who are employed on June 30, 1992, each individual must be offered an individual employment contract by the transferee corporation at the employee's fiscal year 1991-92 salary for a period of one year beginning July 1, 1992. Unless the employee voluntarily leaves the position or is subject to termination for cause, the transferee corporation shall pay the balance of the employee's annual salary for the year ending June 30, 1993 if the employee is laid off. The transferee corporation shall offer this group of employees a benefit package, including health insurance, retirement benefits, Federal Insurance Contributions Act benefits, workers' compensation insurance, disability insurance, or other benefits that the transferee corporation's board of trustees approves equal to at least a value of 20% of the annual salaries and wages of that employee group.

For those Maine Public Broadcasting Network employees who were employed on March 1, 1992 and who are not employed on June 30, 1992 and who have not left their positions voluntarily or been terminated for cause,

1992-93

the transferee corporation shall offer those individuals any vacant positions within their job classifications that are filled prior to June 30, 1993.

Sec. 6. State support; intent. The Legislature intends that the State support and provide funding in accordance with section 3 to meet the costs of delivering broadcast services so that all the people of the State may share equitably in the advantages of public broadcasting, regardless of geographic location or economic circumstances.

Sec. 7. Transfer; findings; intent. The Legislature finds that it is in the best interest of the people of the State in all regions to develop, maintain and support a structure of public broadcasting that will ensure the most cohesive and efficient system possible. The Legislature finds that it is desirable to unify the operations of the Maine Public Broadcasting Network, or MPBN, operated by the University of Maine System, and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, in a nonprofit corporation that will provide public noncommercial radio and television programs for audiences throughout the State, using broadcast systems and other delivery mechanisms that new technological developments may allow. The Legislature further finds that unifying of the operations of MPBN and WCBB will provide a unique and more valuable service to the people of Maine, producing, promoting and delivering more high-quality programs to all Maine residents; unify the people of this State in all geographic areas by increased public awareness of matters of statewide importance; protect public broadcasting's free press function; offer greater efficiency in delivering the best possible service for the lowest possible cost; retain flexibility for combining federal, state and private financial assistance; and develop the independent fundraising potential that public broadcasting has demonstrated.

The Legislature intends that this Act will bring about the orderly transfer of licenses and operational responsibilities for state-owned educational noncommercial radio and television stations to a nonprofit, nonstock private corporation that will combine the broadcasting facilities and capabilities of MPBN and WCBB.

Sec. 8. Freedom of access. In recognition of the fact that the transferee corporation will receive public funds and public assets the transferee corporation is subject to the Maine Revised Statutes, Title 1, chapter 13 and must adopt bylaws and policies to implement the requirements of that chapter.

Sec. 9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

Maine Public Broadcasting Network

All Other	(\$80,258)
Deappropriates funds not needed.	

Maine Public Broadcasting Network

All Other	\$80,258
Provides funds for the construction of a radio transmitter to serve the St. John Valley.	

BOARD OF TRUSTEES OF THE UNIVERSITY OF MAINE SYSTEM TOTAL

\$ -0-

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 9, 1992.

CHAPTER 849

H.P. 1708 - L.D. 2389

An Act to Implement the Jobs Creation Bond Package

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State is in a severe economic downturn and tens of thousands of jobs have been lost in the State during that downturn; and

Whereas, bond issues for infrastructure construction projects are a proven method of creating jobs; and

Whereas, many of the State's infrastructure facilities are in need of immediate improvement; and

Whereas, numerous infrastructure construction projects could begin this summer if funding were available; and

Whereas, those projects are urgently needed to create jobs within the State and to make needed repairs and improvements; and



115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2409

S.P. 945

In Senate, March 10, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

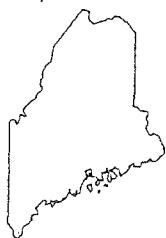
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland
Cosponsored by Senator FOSTER of Hancock, Representative CROWLEY of Stockton
Springs and Representative NORTON of Winthrop.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Improve Educational Public Broadcasting Statewide.



(AFTER DEADLINE)

(EMERGENCY)

Printed on recycled paper

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the further development and enhancement of educational noncommercial radio and television programming for Maine people throughout the State is vital to the State's interest; and

Whereas, there exist present opportunities to unify public and private noncommercial educational broadcasting in this State; and

Whereas, encouragement and assistance to take advantage of these opportunities is essential to the advancement of educational noncommercial radio and television broadcasting in this State; and

Whereas, legislation is necessary to authorize the University of Maine System to take advantage of the opportunity to unify public broadcasting in this State for the benefit of all the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §852, sub-§3 is enacted to read:

3. Transfer of assets and liabilities. The University of Maine System may transfer any assets and liabilities acquired pursuant to this section in order to unify operation in a nonprofit, nonstock private corporation. The University of Maine System retains a reversionary interest in the university's assets as provided for in the articles of incorporation of that corporation. An annual appropriation for operating, constructing equipping, maintaining, improving and replacing facilities of the corporation must be made in amounts sufficient to ensure delivery of broadcast sources throughout the State.

Sec. 2. Transfer authorized. Pursuant to the Maine Revised Statutes, Title 20-A, section 852, subsection 3, the University of Maine System may transfer the assets and liabilities associated with the Maine Public Broadcasting Network, operated by the system, to a Maine nonprofit, nonstock private corporation, referred to in this Act as "the transferee

corporation," formed pursuant to the Maine Revised Statutes, Title 13-B for the purpose of unifying the operations of the Maine Public Broadcasting Network and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, into a noncommercial statewide public broadcasting network.

The transfer may occur only if the transferee corporation has a board of trustees that includes, among others, the chancellor of the University of Maine System; 3 members representing the Board of Trustees of the University of Maine System; the President of Bates College; the President of Bowdoin College; and the President of Colby College.

The Maine Revised Statutes, Title 13, section 3062 does not apply to the transfer of assets authorized in this section. The Treasurer of the University of Maine System may execute and deliver any document or instrument and take any action necessary or convenient to carry out the transfer of assets and liabilities authorized in this section.

Sec. 3. Budget estimates. The transferee corporation shall prepare and submit its appropriations requirements for consideration pursuant to the Maine Revised Statutes, Title 5, section 1665 in the same manner as public higher education institutions of the State. The appropriation requirements are limited to the costs of constructing, equipping, maintaining, improving and replacing the buildings and equipment for its transmitting facilities, production facilities, master control centers and interconnection equipment that provide signals to its transmitters or other distribution systems, and of operating its transmitting facilities so that the Legislature may appropriate sufficient funds to that corporation for those purposes. Appropriations must be made in amounts to be determined by the Legislature for those purposes.

Sec. 4. State support; intent. The Legislature intends that the State support and provide funding in accordance with section 3 to meet the costs of delivering broadcast services so that all the people of the State may share equitably in the advantages of public broadcasting, regardless of geographic location or economic circumstances.

Sec. 5. Transfer; findings; intent. The Legislature finds that it is in the best interest of the people of the State in all regions to develop, maintain and support a structure of public broadcasting that will ensure the most cohesive and efficient system possible. The Legislature finds that it is desirable to unify the operations of the Maine Public Broadcasting Network, or MPBN, operated by the University of Maine System, and WCBB, operated by

2 the Colby-Bates-Bowdoin Educational Telecasting Corporation, in a
4 nonprofit corporation that will provide public noncommercial
6 radio and television programs for audiences throughout the State,
8 using broadcast systems and other delivery mechanisms that new
10 technological developments may allow. The Legislature further
12 finds that unifying of the operations of MPBN and WCBB will
14 provide a unique and more valuable service to the people of
16 Maine, producing, promoting and delivering more high-quality
programs to all Maine residents; unify the people of this State
in all geographic areas by increased public awareness of matters
of statewide importance; protect public broadcasting's free press
function; offer greater efficiency in delivering the best
possible service for the lowest possible cost; retain flexibility
for combining federal, state and private financial assistance;
and develop the independent fundraising potential that public
broadcasting has demonstrated.

18 The Legislature intends that this Act will bring about the
20 orderly transfer of licenses and operational responsibilities for
22 state-owned educational noncommercial radio and television
24 stations to a nonprofit, nonstock private corporation that will
combine the broadcasting facilities and capabilities of MPBN and
WCBB.

26 **Sec. 6. Appropriation.** The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

28 1992-93

30 **UNIVERSITY OF MAINE, BOARD OF**
32 **TRUSTEES OF THE**

34 **Maine Public Broadcasting Network**

36 All Other (\$80,258)

38 Deappropriates funds not needed.

40 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

42 **STATEMENT OF FACT**

44 This bill authorizes the University of Maine System to
46 transfer the assets of the Maine Public Broadcasting Network to a
nonprofit, nonstock private corporation to unify its operations'
48 with those of the Colby-Bates-Bowdoin Educational Telecasting
Corporation into a statewide noncommercial public broadcasting

2 network. A reversionary interest is retained by the University
of Maine System. The bill further provides that it is the intent
of the State to fund the delivery of public broadcast services
4 statewide.

JOHN D. WAKEFIELD

Director

Date: 03/10/92

ORIGINAL

Hearing Date:

Committee: Education

JAMES A. CLAIR

Deputy Director

Maine State Legislature
OFFICE OF FISCAL AND PROGRAM REVIEW
Augusta, Maine 04333

TO: Senate Chairman - Sen. S. Estes
House Chairman - Rep. N. Crowley
Sponsor - Sen. Brannigan of Cumberland

FROM: Grant T. Pennoyer, ^{RP} Principal Analyst

SUBJECT: FISCAL NOTE INFORMATION FOR LD 2409

An Act to Improve Educational Public Broadcasting Statewide

I. The estimated increase (decrease) of Appropriations and Allocations required if this Legislative Document is approved.

A. Line Item Summary	1991-92	1992-93
-----------------------------	----------------	----------------

Positions		
Personal Services		
All Other		
Capital Expenditures		
Unallocated		
TOTAL		

B. Fund Summary	1991-92	1992-93
------------------------	----------------	----------------

General Fund		
Highway Fund		
Other Funds		

II. The estimated increase (decrease) of Revenues for the biennium is as follows.

	1991-92	1992-93
--	----------------	----------------

General Fund		
Highway Fund		
Other Funds		

III. Remarks:

This bill limits the funding for the new public broadcasting corporation to certain costs including construction and maintenance and includes a General Fund deappropriation of \$80,258 in fiscal year 1992-93 to the University of Maine. The amount of the deappropriation may require adjustment depending on the fiscal year 1992-93 budget enacted by the Legislature.

This bill should be amended with a fiscal note.

R. of S.

L.D. 2409

(Filing No. S-666)

STATE OF MAINE
SENATE
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 945, L.D. 2409, Bill, "An Act to Improve Educational Public Broadcasting Statewide"

Amend the bill in section 2 in the 2nd paragraph in the 2nd line (page 2, line 8 in L.D.) by striking out the following: " , among others,"

Further* amend the bill in section 2 in the 2nd paragraph in the last line (page 2, line 12 in L.D.) by striking out the following: "and"

Further amend the bill in section 2 in the 2nd paragraph in the last line (page 2, line 12 in L.D.) by inserting after the following: "Colby College" the following: ' ; and not fewer than 8 nor more than 12 public trustees elected by the board in the manner prescribed in the corporation's bylaws'

Further amend the bill by inserting after section 3 the following:

Sec. 4. Personnel. The transferee corporation shall protect certain rights of Maine Public Broadcasting Network employees covered by collective bargaining agreements as of March 1, 1992 as follows.

For those Maine Public Broadcasting Network employees who were employed on March 1, 1992 and who are employed on June 30, 1992, each individual must be offered an individual employment contract by the transferee corporation at the employee's fiscal year 1991-92 salary for a period of one year beginning July 1, 1992. Unless the employee voluntarily leaves the position or is subject to termination for cause, the transferee corporation shall pay the balance of the employee's annual salary for the year ending June 30, 1993 if the employee is laid off. The transferee corporation shall offer this group of employees a

R. of S.

COMMITTEE AMENDMENT "A " to S.P. 945, L.D. 2409

benefit package, including health insurance, retirement benefits,
Federal Insurance Contributions Act benefits, workers'
compensation insurance, disability insurance, or other benefits
that the transferee corporation's board of trustees approves
equal to at least a value of 20% of the annual salaries and wages
of that employee group.

For those Maine Public Broadcasting Network employees who
were employed on March 1, 1992 and who are not employed on June
30, 1992 and who have not left their positions voluntarily or
been terminated for cause, the transferee corporation shall offer
those individuals any vacant positions within their job
classifications that are filled prior to June 30, 1993.

Further amend the bill by striking out all of section 6 and
inserting in its place the following:

Sec. 6. Appropriation. The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

1992-93

**UNIVERSITY OF MAINE SYSTEM,
BOARD OF TRUSTEES OF THE**

Maine Public Broadcasting Network

All Other (\$80,258)

Deappropriates funds not needed.

Maine Public Broadcasting Network

All Other \$80,258

Provides funds for the construction of a
radio transmitter to serve the St. John
Valley.

**BOARD OF TRUSTEES OF THE
UNIVERSITY OF MAINE SYSTEM
TOTAL**

\$ -0-

Further amend the bill by renumbering the sections to read
consecutively.

Further amend the bill by inserting at the end before the
statement of fact the following:

2 FISCAL NOTE

4 This bill limits the funding for the new public broadcasting
6 corporation to certain costs, including construction and
8 maintenance, and includes a General Fund deappropriation of
10 \$80,258 in fiscal year 1992-93 to the University of Maine System
12 for operating costs no longer needed. The bill reappropriates
14 those savings to the University of Maine System to be used for
the construction of a radio transmitter to serve the St. John
Valley. The amount of the deappropriation and subsequent
reappropriation may require adjustment depending on the fiscal
year 1992-93 budget enacted by the Legislature.'

16 STATEMENT OF FACT

18 This amendment clarifies that the University of Maine System
20 may transfer the assets of the Maine Public Broadcasting Network,
22 or MPBN, to the transferee corporation only if the corporation
has a board of trustees that includes between 8 and 12 public
trustees elected by the board in the manner prescribed in the
corporation's bylaws.

24 The amendment requires the transferee corporation to offer
26 one-year individual employment contracts at fiscal year 1991-92
28 salary levels to MPBN employees who were employed on March 1,
1992 and who are employed on June 30, 1992. It guarantees that,
30 unless employees in that group voluntarily leave their employment
or are terminated for cause, the transferee corporation shall pay
32 the balance of the employee's annual salary for fiscal year
1992-93 if the employee is laid off. It also guarantees that,
34 the transferee corporation will offer that group of employees a
benefit package equal to at least 20% of the group's annual
salaries and wages.

36 The amendment requires that, for fiscal year 1992-93, the
38 transferee corporation shall offer vacant positions within an
employee's job classification to MPBN employees who lose their
40 jobs between March 1, 1992 and June 30, 1992 unless they have
left their position voluntarily or been terminated for cause.

42 The amendment adds an appropriation section that provides
44 \$80,258 as a portion of the state match needed to build a radio
transmitter to serve the St. John Valley.

46 The amendment also adds a fiscal note.

Reported by Senator Estes for the Committee on Education.
Reproduced and Distributed pursuant to Senate Rule 12.
(3|23|92) (S-666)

L.D. 2409

(Filing No. H- 1200)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 945,
L.D. 2409, Bill, "An Act to Improve Educational Public
Broadcasting Statewide"

Amend the amendment in the 3rd paragraph in the last line
(page 1, line 28 in amendment) by striking out the following:
"bylaws" and inserting in its place the following: 'bylaws. The
president of the transferee corporation is a nonvoting member of
the board'

STATEMENT OF FACT

This amendment clarifies that the president of the
transferee corporation is a nonvoting member of the board.

Filed by Rep. Crowley of Stockton Springs
Reproduced and distributed under the direction of the Clerk of the
House
3/23/92 (Filing No. H-1200)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "F" to COMMITTEE AMENDMENT "A" to S.P. 945,
L.D. 2409, Bill, "An Act to Improve Educational Public
Broadcasting Statewide"

Amend the amendment by inserting after the title the
following:

'Amend the bill by inserting after the enacting clause the
following:

'Sec. 1. 1 MRSA §402, sub-§2, as amended by PL 1989, c. 878,
Pt. A, §1, is further amended to read:

2. Public proceedings. The term "public proceedings" as
used in this subchapter shall ~~mean~~ means the transactions of any
functions affecting any or all citizens of the State by any of
the following:

A. The Legislature of Maine and its committees and
subcommittees;

B. Any board or commission of any state agency or
authority, the Board of Trustees of the University of Maine
System and any of its committees and subcommittees, the
Board of Trustees of the Maine Maritime Academy and any of
its committees and subcommittees, the Board of Trustees of
the Maine Technical College System and any of its committees
and subcommittees;

C. Any board, commission, agency or authority of any
county, municipality, school district or any regional or
other political or administrative subdivision; and

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; and

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees.

Further amend the amendment in the first paragraph after the title in the first line (page 1, line 16 in amendment) by striking out the following: "Amend" and inserting in its place the following: 'Further amend'

Further amend the amendment by inserting before section 6 the following:

'Sec. 6. Freedom of access. In recognition of the fact that the transferee corporation will receive public funds and public assets the transferee corporation is subject to the Maine Revised Statutes, Title 1, chapter 13 and must adopt bylaws and policies to implement the requirements of that chapter.'

Further amend the amendment in section 6 in the first line (page 2, line 18 in amendment) by striking out the following: "Sec. 6." and inserting in its place the following: 'Sec. 7.'

STATEMENT OF FACT

This amendment makes the transferee corporation that provides statewide noncommercial public broadcasting subject to the freedom of access laws.

Filed by Rep. Handy of Lewiston
Reproduced and distributed under the direction of the Clerk of the House
(3/26/92) (Filing No. H-1290)



MEMO FROM

STATE OF MAINE
LEGISLATIVE COMMITTEE
ON
EDUCATION

NOT Advertised

SENATE

STEPHEN C. ESTES, DISTRICT 35, CHAIR
DALE McCORMICK, DISTRICT 13
LINDA CURTIS BRAUN, DISTRICT 21



MICHAEL HIGGINS, LEGISLATIVE ANALYST
JULIE FORTIN, COMMITTEE CLERK

HOUSE

NATHANIEL J. CROWLEY, SR., STOCKTON SPRINGS, CHAIR
JAMES R. HANDY, LEWISTON
WILLIAM B. O'GARA, WESTBROOK
JAMES V. OLIVER, PORTLAND
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MARY F. CAHILL, MATTAWAMKEAG
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OMAR P. NORTON, WINTHROP
WENDY L. AULT, WAYNE
ALVIN L. BARTH, JR., BETHEL

STATE OF MAINE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

COMMITTEE ON EDUCATION

February 26, 1992

The Honorable Charles P. Pray
Chair, Legislative Council
Maine State Legislature
State House
Augusta, Maine 04333

Dear Chairman Pray:

The Joint Standing Committee on Education requests permission to report out two bills:

1. LR 3781, An Act to Consolidate Noncommercial Public Broadcasting Statewide. This LR has been submitted to the Legislative Council as an after deadline request.
2. A bill consisting of legislation proposed by the report of the Advisory Committee on Medical Education. The report has been submitted in compliance with PL 1991, c. 612, §19 which required the Finance Authority of Maine to report to the Joint Standing Committee on Education on the existing programs for financial assistance for postgraduate medical education and to include suggested changes.

The Education Committee views action on these two bills as a priority. Work on both bills can be completed by March 6.

Sincerely,

Sen. Stephen C. Estes
Senate Chair

Rep. Nathaniel J. Crowley, Sr.
House Chair

3898GEA

mtf
3/8/92

WHEN I PLAN TO BUILD SOMETHING I HAVE AN IDEA OF WHAT IT WILL LOOK LIKE. I SKETCH A BLUEPRINT OR DRAW A SCHEMATIC OR MAKE A DRAWING OF THE IDEA. I TAKE THAT IDEA AND BEGIN MAKING A LIST OF WHAT THIS IDEA WILL NEED TO BE BUILT. THIS LIST WILL INCLUDE HOW I WILL BUILD IT, HOW I WILL ARRANGE THE PARTS THAT WILL BE INCLUDED, WHAT PARTS WILL BE NEEDED, HOW MANY PARTS, WHAT THE SIZES WOULD BE OF THESE PARTS. WHAT THE COST WILL BE AND HOW IT WILL GO TOGETHER.

I DO NOT JUST ENVISION THE FINISH^{ed} PRODUCT, I HAVE ACTUAL PLANS THAT I CAN LOOK AT AND REVISE AS I PROGRESS IN MY BUILDING ENDEAVOR. WHEN I LAY MY PLANS ON PAPER I CAN GET A BETTER OVER ALL PICTURE AS TO WHAT MY FINAL GOAL FOR THE PROJECT WILL BE. I WILL HAVE A BETTER UNDERSTANDING OF THE COST FOR MATERIAL AND LABOR FOR THE PROJECT. I CAN PLAN MY BUDGET AND BE BETTER PREPARED FOR UNEXPECTED COSTS AND DELAYS. I CAN SEEK HELP FROM OTHERS TO HELP ME REFINE MY PLAN AND SEE IT TAKE SHAPE INTO WHAT I HAVE ENVISIONED.

THE ENVISIONED MERGER OF MPBN AND WCBB HAS NOT PRODUCED A PLAN THAT CAN BE SHARED BY THE STATE OF MAINE, THE VIEWERS, THE EMPLOYEES OF BOTH COMPANIES OR ANYONE CONCERNED WITH PUBLIC BROADCASTING. WHAT ARE THE COST SAVINGS OR POSSIBLE ADDED EXPENSES THAT WILL BE REALIZED? WHERE IS THE STUDY THAT SHOWS THE SAVINGS OR EXPENSES THAT WILL BE INCURRED AND HOW WILL THESE SAVINGS OR EXPENSES BE REALIZED? HOW WILL THE COMBINED STATIONS PROGRAMMING BENEFIT THE STATE OF MAINE AND CANADIAN VIEWERS? WHERE IS THE STUDY SHOWING HOW A BETTER PUBLIC BROADCASTING STATION WILL EVOLVE? HOW WILL THE MERGER AFFECT THE PRESENT EMPLOYEES OF BOTH CONCERNS? WHERE IS THE PLAN FOR THE COMBINING OF BOTH GROUPS OF EMPLOYEES AND HOW WILL THEIR BENEFITS, WORK LOADS, POSSIBLE RELOCATION, BE AFFECTED?

I REALIZE THAT GROUND WORK HAS BEEN ACCOMPLISHED: BY-LAWS AND LEGALITIES FOR TURNING OVER ASSETS AND LIABILITIES, A VISION OF THE COMBINED STATIONS HAS BEEN DISCUSSED. BUT WHERE ARE THE PLANS TO SHOW HOW THIS IS TO BE BUILT? ASSURANCES AREN'T ENOUGH! ANY PRACTICAL BUSINESSMAN OR WOMAN WOULD HAVE SOME KIND OF A DRAFT (NOT LEGISLATIVE DRAFT) TO WORK FROM. THIS DRAFT OR PLAN WOULD BE THE FOUNDATION, ALONG WITH THE VISION, TO BUILD THE NEW PUBLIC BROADCASTING NETWORK. THIS DRAFT OR PLAN COULD THEN BE SHARED WITH ALL INVOLVED AND INPUT COULD THEN BE ADDED TO IMPROVE AND STRENGTHEN THE OVERALL NEW NETWORK.

-2-

PLEASE CONSIDER THE ABOVE CONCERNS AND ASK THE SAME QUESTIONS THAT I HAVE BROUGHT FORTH. I WANT TO SEE A SUCCESSFUL MERGER AND SUCCESSFUL NEW PUBLIC BROADCASTING NETWORK FOR THE STATE OF MAINE. I WANT TO SEE THE ENTHUSIASM THAT HAS BEEN SHARED BY ED WINCHESTER AND ROB GARDINER PASSED ON TO THE REST OF THE EMPLOYEES OF MBPN AND WCBB. I WANT ALL OF US TO LOOK FORWARD TO THIS NEW AND EXCITING ADVENTURE AND TO BE CONFIDENT THAT WE WILL ALL HAVE A PART IN CREATING WHAT COULD BE A GREAT PUBLIC BROADCASTING NETWORK FOR THE STATE OF MAINE.

THANKS.

ENC. 2

3/8/92
UNIFICATION OF MPBN/WCBB

WHAT ARE THE OVER ALL GOALS OR OBJECTIVES FOR THE NEW CORP?
WHAT OR WHERE ARE THE PLANS TO REACH THESE GOALS OR
OBJECTIVES?

FINANCIAL: ACTUAL FIGURES

ACTUAL VS. PROJECTED INCOMES
ACTUAL VS. PROJECTED EXPENSES

BREAK DOWN FOR OPERATION OF THE NEW CORP.

1. PLANT OPERATION (BANGOR/LEWISTON)
2. PROGRAMMING
3. EMPLOYEE (SALARIES/BENEFITS)

A. PLANT OPERATIONS

1. BUDGET-ACTUAL VS. PROJECTED
BANGOR AND LEWISTON
2. WHAT SAVINGS OR EXPENSES MIGHT BE INCURRED?
3. GOALS OR OBJECTIVES
 - A. STEPS TO REACH THESE GOALS
 - B. MEDIATOR TO HELP W/TRANSITION

B. PROGRAMMING

1. BUDGET-ACTUAL VS. PROJECTED
WHOLE STATE AND CHANNEL 26
2. WHAT SAVINGS OR EXPENSES MIGHT BE INCURRED?
3. GOALS OR OBJECTIVES
 - A. STEPS TO REACH THESE GOALS
 - B. MEDIATOR TO HELP W/ TRANSITION

C. EMPLOYEES

1. BUDGET-ACTUAL VS. PROJECTED
SALARIES AND BENEFITS
2. WHAT SAVINGS OR EXPENSES MIGHT BE INCURRED?
3. GOALS OR OBJECTIVES
 - A. STEPS TO REACH THESE GOALS
 - B. MEDIATOR TO HELP W/ TRANSITION
4. BREAK DOWN OR NEW PLAN FOR VARIOUS DEPARTMENTAL
POSITIONS.
 - A. STEPS TO REACH THESE GOALS
 - B. MEDIATOR TO HELP W/TRANSITION

Senator Estes, Representative Crowley, members of the Education Committee, my name is Rolf Tallberg. I represent the Maine Teachers Association and appear before you today on behalf of the classified and professional staff of MPBN.

The employees want to ensure that this proposed unification is accomplished with little or no disruption to the viewers and listeners of public broadcasting. In that vein, it is my responsibility to see that it takes place with a minimum of disruption to their professional and personal lives.

They will tell you that certain things must be done to preserve the integrity of broadcasting through this transition. I will tell you that before this bill leaves this committee, we must be sure that the integrity of the employees, the network's most valuable asset, is also protected.

It is the task of this committee to ensure that the employees responsible for the high level of quality that public broadcasting enjoys, do not become the big losers, the only losers as a result of this merger. We ask you to provide reassurance that the gains made by MPBN employees as

a result of twelve years of collective bargaining, will not be erased by legislative mandate.

These employees demonstrate their commitment every day. You have all heard and seen their commitment in the quality of programming they provide. They are eager to continue that commitment to quality. All they ask is that it not cost them personally or professionally.

What these employees expect from this committee is a careful and thoughtful review of the issue before you, and serious consideration of the potential impact this will have on their lives. They have a right to expect that the time they have dedicated to providing education, culture, and information to Maine's citizens will not be lost or devalued in this frankly baffling scramble for consolidation.

If one goal of this proposed unification is to preserve the icon of public broadcasting, this committee must send a bill to the floor of the Legislature which insures that everyone benefits. Anything less is a disservice to the state and will most certainly damage Maine's public broadcasting reputation.

Thank you for your time. I'd be happy to answer any questions.

MAINE PUBLIC BROADCASTING CORPORATION
STATUS REPORT, FEBRUARY 13, 1992

During the past year, discussions between Maine's two public broadcasting organizations, the Maine Public Broadcasting Network (MPBN), licensed to the Board of Trustees of the University of Maine System, and the Colby-Bates-Bowdoin Educational Telecasting Corporation (WCBB-10), licensed as an independent non-profit corporation, have led to a plan consolidating ownership and operations of these two systems. Both Boards of Trustees have approved transfer of their licenses and systems to a newly formed non-profit entity, The Maine Public Broadcasting Corporation. The Boards of Trustees of Colby, Bates, and Bowdoin Colleges have also indicated their approval of the plan. Now the Maine State Legislature will be asked for its approval. If given, the new institution will assume all public broadcast operations statewide on July 1, 1992.

This status report provides an explanation of the background issues leading to the consolidation plan, a report on progress to date, a description of the anticipated effects on programming, fund raising, and future opportunities, and an outline of the remaining steps required before the plan can be implemented.

History

In the late 1950's, visionary educators at the University of Maine and at Colby, Bates, and Bowdoin Colleges agreed upon the potential use of non-commercial television to meet the educational and cultural needs of Maine citizens. Public understanding and support were essential for the dream to be realized. The initial plan to finance development of educational television through a state bond issue was rejected by voters. The Presidents of Colby, Bates, and Bowdoin, however, decided to use private funds to establish the first non-commercial television station, WCBB-10. This station began broadcasting in November 1961, serving southern Maine from Portland to Waterville. In 1962, Maine voters passed a bond issue enabling the University of Maine to launch Maine ETV with Station WMEB in Orono, serving eastern Maine. WMEM-Presque Isle, serving Aroostook County, and WMED-Calais, serving Washington County and the Maritime Provinces of Canada, followed. In the 1970's and 80's, with the addition of WMEA-Biddeford, serving York County, and five radio stations in Bangor, Portland, Presque Isle, Calais, and Waterville, Maine ETV became the Maine Public Broadcasting Network (MPBN).

During the decade of the 1980's, broadcasting was dramatically changed by the growth of cable TV. Cable became the means by which two-thirds of all Maine households now receive TV signals; over half of all Maine households receive two or more public television stations. Where both stations are available, MPBN and WCBB have increasingly heard viewers ask, "Why are there two public television systems in Maine?"

By 1991, the two stations were clearly pursuing nearly identical missions, and had developed similar program schedules, fund raising strategies, and local programming efforts. As the differences between the two systems diminished, the logic of consolidation to achieve statewide unity, enhance service, and make more efficient use of resources appeared inescapable. Representatives of both

stations met in the spring of 1991 to explore the creation of a new statewide system meeting the common goals of both broadcasting organizations and providing better service to audiences.

The Goal of Unification

During the discussions between MPBN and WCBB, a vision of the potential advantages of consolidation began to emerge. A committee, made up of trustee representatives and both station managers, was charged with the responsibility for exploring the idea of consolidation. The committee concluded that while both systems had been successful in fulfilling their missions, the future for a unified system looked dramatically brighter. The entire broadcast industry is under severe competitive pressures and is limited in its potential to improve programming using traditional approaches. By joining the two public systems, the result will be substantially greater than the sum of the two parts. The committee chose the term "unification" to describe the process it envisioned. Unification carries no implication of shrinking resources or program cut-backs. While Maine has a relatively small population and limited resources, unification of MPBN and WCBB, and the consolidation of their resources, allows continued technological improvement, more diversified programming and more effective private fund raising. Specifically, the following enhancement opportunities were identified:

1. Each station produces local programs that the other does not carry. The combined local production resources, when used in a coordinated manner statewide, will significantly increase and improve television coverage about Maine. By broadcasting such programs to all parts of Maine, viewers' understanding of our entire state will be enhanced.
2. A second, completely differentiated television program schedule could be offered using Channel 26 in southern Maine and cable systems in other areas to reach more than half of all Maine households. While such a proposal needs further development and Board review, it is an example of how currently redundant equipment and other resources can be redeployed to achieve impressive improvements in services.
3. Currently public radio and television are not coordinated for maximum impact in the parts of southern and central Maine that are served by WCBB. Combining the power of public radio and public television statewide will greatly enhance the news and cultural programming, program information and other public services.
4. Public confidence in and appreciation of public broadcasting is expected to increase as a result of improved services and more efficient operations. Supporters of public broadcasting will therefore, get more value for their contributions. A combined organization will also have more fund raising power and efficiency.

The Decision Process to Date

As the committee identified the benefits that could emerge from unification, it considered the complex process that would be required to achieve it. A proposal was developed in very rough outline during the summer and early fall, leading to discussions with the full WCBB and University Boards of Trustees in September. These public discussions triggered a major feature story in the Maine Sunday Telegram in October. In November, both station managers officially informed the more than 60,000 supporting members who receive MPBN's and WCBB's program guides about the idea and invited public response. Their reaction has been very positive. Additionally, early in the process the Governor and legislative leadership were consulted, as any plan would ultimately need the active approval of state government for unification and continued state funding.

The Proposal

The new entity, the Maine Public Broadcasting Corporation (MPBC) inherits the mission shared by both MPBN and WCBB: to provide high quality non-commercial broadcast services for viewers and listeners statewide. Technically, both MPBN and WCBB will be absorbed by MPBC.

The new corporation will initially have a governing board comprised of seven Institution Trustees: the Chancellor of the University of Maine System, three UMS Trustees, and the Presidents of Colby, Bates, and Bowdoin Colleges. Eight to twelve Public Trustees will be selected later. The Institution Trustees have completed action to formally create the new corporation and have elected Robert Woodbury (Chancellor of UMS) as Chair, William Cotter (President of Colby College) as Vice-Chair, and Robert Gardiner (President of WCBB) as President.

The current proposal for the new corporation envisions continuing the production centers and other current activities in Bangor, Lewiston and Portland. Unification will allow resources that were previously consumed in providing duplicated activities to be used to improve and expand public services. Preliminary estimates for revenues anticipate no further reductions in state funding or any significant reductions in support from members or corporations. The Trustees have made a commitment to retain all current employees; this commitment has been given because the preliminary plans indicated that, in the wake of significant staff reductions at MPBN during 1991, all current staff will be needed to fulfill the operating objectives of a unified service.

The formal unification agreement covers the complex legal processes of transferring ownership of assets, allocating liabilities, and connecting the actions of the six different entities (UMS, WCBB, Colby, Bates, Bowdoin, and the Maine State Legislature) that must approve the agreement. The first five of those have now voted approval. Legislation to complete the last step in the process has been drafted and submitted for action during this legislative session.

What Remains to be Done

If the draft legislation is approved by the Maine State Legislature and the Governor, the unification process will continue. Specific plans for operating the stations in a coordinated fashion in order to achieve potential improvements will be developed by the staffs of both MPBN and WCBB. Ten staff task forces have already been formed to address the more urgent matters.

It is imperative to communicate these unification plans to the hundreds of thousands of public broadcasting's viewers and listeners throughout Maine. The 60,000 members, hundreds of businesses, 120 corporate underwriters, and 30 foundations currently supporting MPBN and WCBB must be encouraged to transfer their loyalty and their essential financial contributions to the new Maine Public Broadcasting Corporation.

Conclusion

A former Chairman of the Federal Communications Commission has described public television as "the most important educational institution in America." The proposal to unify Maine's public broadcasting organizations has been developed to further the ideal of excellence in providing this most important educational service. It should enable public television and public radio to increase public confidence in the system, purchase and produce higher quality programs, raise funds more effectively, operate more efficiently, help unify the people of Maine, and reduce the long term costs of service. The Maine Public Broadcasting Corporation is built upon the traditions that for 30 years have developed public broadcasting in this state. It looks toward a future filled with promise for the hundreds of thousands of Maine people who rely on radio and television to bring information, education, inspiration, and entertainment into their daily lives.

VOTING TALLY SHEET

Committee: EDUCATION

Date: March 13, 1992

Question: L.D. 2409 - An Act to Improve Educational Public Broadcasting Statewide (EMERGENCY)

Motion by: Rep. Barth second Rep. Handy - OTP-AM

No.		Yea	Nay	Absent	Abstained
1	REP. OMAR NORTON	✓			
2	REP. MARY CAHILL	✓			
3	REP. JOHN O'DEA	✓			
4	REP. JAMES OLIVER	✓			
5	REP. JAMES HANDY	✓			
6	REP. NATHANIEL CROWLEY	✓			
7	SEN. STEPHEN ESTES	✓			
8	SEN. DALE McCORMICK	✓			
9	SEN. LINDA BRAWN	✓			
10	REP. WILLIAM O'GARA	✓			
11	REP. SOPHIA PFEIFFER	✓			
12	REP. ALVIN BARTH	✓			
13	REP. WENDY AULT	✓			
TOTAL		13			

COMMITTEE ON: EDUCATION

LD#: 2409

TITLE: An Act to Improve Educational Public Broadcasting
Statewide.

HEARING DATE: March 10, 1992

WORK SESSION DATE: March 11, 1992
March 12, 1992
March 13, 1992

REPORTED OUT DATE: 3-²³~~20~~92

COMMITTEE REPORT: OTP-AM

ABSENT - Bowers, Carroll, J.; Gurney, Hichborn, Richens, Lipman, Paradis, P.; Parent, Richardson, Sheltra, Whitcomb, The Speaker.

Yes, 55; No, 84; Absent, 12; Paired, 0; Excused, 0.

55 having voted in the affirmative and 84 in the negative with 12 being absent, the motion to indefinitely postpone did not prevail.

Subsequently, the bill was passed to be engrossed as amended by Committee Amendment "A" (H-1223) as amended by House Amendment "A" (H-1289) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: (S.P. 945) (L.D. 2409) Bill "An Act to Improve Educational Public Broadcasting Statewide" (EMERGENCY) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (S-666).

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: What this bill does is it creates the Maine Public Broadcasting Corporation by combining the Maine Public Broadcasting Network, which is a part of the University of Maine and the WCBB; that's the Colby, Bowdoin, and Bates Television Channel 10 to improve educational public broadcasting statewide. The reasons we are doing this is that we feel by melding these two educational television stations doing the same thing, we feel that by putting them together and folding them and making them one, it isn't a matter of one going to the other, it is a matter of WPNB and WCBB going into the Maine Public Broadcasting Corporation. The bill authorizes the University of Maine System to transfer the assets of the Maine Public Broadcasting Network to the non-profit/non-stock private corporation to unify its operations with those of Colby, Bates and Bowdoin Educational Telecasting Corporation into a statewide, non-commercial public broadcasting unit.

It also establishes a board of trustees made up of the chancellor and three trustees from the University of Maine and also the three presidents of the Colby, Bates and Bowdoin colleges which would make a seven member board and the chancellor would be the chairman of that board. Then later, there would be not fewer or more than 12 public trustees elected by that board according to the corporation bylaws. The personnel rights were protected for both the employees from MPBN and WCBB in the bill.

There is also an \$80,258 deappropriation by this melding from MPBN to construct a radio transmitter to serve the northern part of the state, an underserved area in the radio corporation. As you understand, this is a Maine Public Television and then there will be the other unit of the Maine Public Radio and they may do business under those names.

Representative Crowley of Stockton Springs offered House Amendment "A" (H-1200) to Committee Amendment "A" (S-666) and moved its adoption.

House Amendment "A" (H-1200) to Committee Amendment "A" (S-666) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment simply changes the bylaws as we have them written in the original bill so that the president of the transferee corporation becomes a non-voting member of the board. We felt that where a person would be hired and paid \$70,000 or \$80,000 to run this corporation that he should be working for the board of directors rather than being a voting member. So, this amendment makes him a non-voting member of the board and we have run this by both of the television organizations and they agreed that it is a good idea.

Subsequently, House Amendment "A" (H-1200) to Committee Amendment "A" (S-666) was adopted.

Representative Handy of Lewiston offered House Amendment "F" (H-1290) to Committee Amendment "A" (S-666) and moved its adoption.

House Amendment "F" (H-1290) to Committee Amendment "A" (S-666) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: This amendment that I am offering this evening puts this new entity under the Freedom of Access provisions of Chapter 13 in Title I. Because this entity will be receiving \$2 million, assuming they will be receiving \$2 million per year, as currently MPBN does from the General Fund, and because of the transfer of the assets from Maine Public Broadcasting Network to this new entity, it seems to me only appropriate that the Freedom of Access provisions apply to this new entity.

I hope you support the amendment.

Subsequently House Amendment "F" (H-1290) to Committee Amendment "A" (S-666) was adopted.

Representative O'Dea of Orono offered House Amendment "B" (H-1202) to Committee Amendment "A" (S-666) and moved its adoption.

House Amendment "B" (H-1202) to Committee Amendment "A" (S-666) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: House Amendment "B" is permissive language that affects the board of trustees for the new corporation. What it does is say that the presidents of Bowdoin, Bates and Colby who serve on the board in the bill may now appoint a designee to serve on the board. It also allows the chancellor to appoint the designee to serve in his place. It also allows the board of trustees at the University of Maine System to select members of the general public to serve on the board.

What this does is it keeps the members of the board of trustees at the University and the chancellor from being tied up with this board. It is designed to encourage the board to be a more of an activist board. It also provides for the election of two public members, one from the first congressional district and one from the second congressional district, thus providing a measure of geographic representation that might not otherwise be there. It also provides for an appointee by the Governor and also removes the CEO of the corporation from the board of trustees as a voting member.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, I move the indefinite postponement of this amendment.

In the Articles of Incorporation of the boards of Colby Bates and Bowdoin and the University of Maine Systems, they have written into the Articles of Incorporation a plan for dissolution. If they want to dissolve this corporation, either the University of Maine Board of Trustees and the chancellor or the three college presidents of Bates, Bowdoin and Colby, have the right to dissolve this any time between now and December 31st, the year 2001. In talking with the various college presidents and trustees and the chancellor, they said, if this were to go through, that they would just dissolve it now and the merger would never take place. I am afraid that this would destroy it. I hope you vote against this amendment.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: This amendment has nothing to do with the dissolution of the corporation, it merely allows the presidents for these institutions to designate other people to serve on the board. It does nothing to jeopardize the bill. If you look at House Amendment "B" and read through it, you will see that that is the case.

I believe it is an idle threat on the part of some of the WCBB people to walk away from this deal. There is nothing in here that is harmful or threatening and all it does is ensure that the board is an activist board and committed to the cause. The last thing we need in this state is another board similar to the board of trustees at the University of Maine system, a board that is comprised of very busy people who are held hostage to a system where they show up for a monthly trustees meeting and move through an agenda that has been set by somebody else. I would really hope that you would adopt this amendment.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: Because I know you would rule me out of order, I will respond to the comment about the University of Maine Board of Trustees and being held captive another day and another time. I do urge you to vote against this amendment.

The comment was made by the proponent of it that he doesn't want the president to be tied up — the trustees are already on the board now, they are serving on the board now very effectively, doing a good job and there is no need for this amendment. I urge you to vote against it.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: I urge you to vote against the indefinite postponement of this amendment. I think this amendment adds an extra safeguard and provides for more accountability on the board.

I must just express my deep concern because this bill was only printed March 9th. The Education Committee has done a commendable job but I think it is very clear that we are already having debate on this bill from different members of the Education Committee who disagree on these amendments and that worries me a lot.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I truly didn't intend to rise, usually I do. However, on this particular

amendment, I feel the safeguards are in and I am getting up only to prove to a degree that this committee is together on this for the most part. I urge the indefinite postponement based on facts already mentioned.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: Let me be frank, I rise because I am from the community of Auburn and WCBB is located in Lewiston, a neighboring town and I have a personal interest in this. As they say, all politics is local.

I would like to request from anyone who cares to answer, what the committee report was on the original bill?

The SPEAKER: Representative Dore of Auburn has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: The bill as reported out of committee with the Committee Amendment was a unanimous Committee Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Crowley of Stockton Springs that House Amendment "B" (H-1202) to Committee Amendment "A" (S-666) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

62 having voted in the affirmative and 22 in the negative, the motion did prevail.

Subsequently, Committee Amendment "A" (S-666) as amended by House Amendments "A" (H-1200) and "F" (H-1290) thereto was adopted.

Under suspension of the rules, the bill was read the second time and passed to be engrossed as amended by Committee Amendment "A" (S-666) as amended by House Amendments "A" (H-1200) and "F" (H-1290) thereto in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 25 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Expand the Membership of the Animal Welfare Board" (S.P. 696) (L.D. 1861) which was passed to be engrossed as amended by Committee Amendment "A" (S-639) as amended by Senate Amendments "A" (S-647), "D" (S-681) and "E" (S-685) and House Amendments "A" (H-1247) and "B" (H-1278) thereto in the House on March 25, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-639) as amended by Senate Amendments "A" (S-647), "D" (S-681), "E" (S-685) and "F" (S-689) and House Amendments "A" (H-1247) and "B" (H-1278) thereto in non-concurrence.

Later Today Assigned

An Act to Amend the Animal Welfare Laws (S.P. 696) (L.D. 1861) (S. "A" S-647; S. "D" S-681; S. "E" S-685; H. "A" H-1247; and H. "B" H-1278 to C. "A" S-639)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and later today assigned.

PASSED TO BE ENACTED**Emergency Measure**

An Act to Improve Educational Public Broadcasting Statewide (S.P. 945) (L.D. 2409) (H. "A" H-1200 and H. "F" H-1290 to C. "A" S-666)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: It has been kind of a long process in a short period of time for the Education Committee to work out this piece of legislation for any number of reasons. For the Record, I think it is important to have the historical perspective of on how far the Education Committee has come with this bill which would cause the unification of the Maine Public Broadcasting and WCBB Channel 10 in Lewiston.

We received the bill and the bill, in my estimation and I think the estimation of a number of our colleagues, was very, very poorly drafted. In the very short period of time the Education Committee had to work on this bill with very little information and what information we had to start with and what additional information we needed was very difficult for us to obtain. We did not receive, unfortunately, the cooperation that we would normally expect from individuals involved with a particular piece of legislation but, due to the diligence of a number of the committee members, in fact all the committee members, as well as employees of both Channel 10 and Maine Public Broadcasting, we were able to get the necessary information to move this bill forward in the legislative process and bring it to the floor for you.

In the bill, we have taken what the committee deems to be necessary safeguards for those employees of Maine Public Broadcasting. I think it is important to recognize that the employees of MPBN through the sacrifices that they have made and the sacrifices that they will make to make this unification a reality. Without their dedication to public broadcasting in this state, this merger may not have taken place. I believe that we and all the citizens of the state owe them a great deal of thanks for their willingness to help improve public broadcasting in the State of Maine and help this bill come to fruition.

Unfortunately, the employees of Channel 10 in Lewiston were not afforded the same opportunity of

information and exchange with the Education Committee. What information we got from them came about through meetings with myself and other members of the Education Committee. I spoke to employees who work in any number of departments at Channel 10. I spoke to a member of the trustees, I spoke also to management at Channel 10.

Channel 10 employees were called to a staff meeting a week after the Education Committee had met on this legislation. I must say it came back to me about some information — in fact, misinformation and misrepresentations of my position particularly on this legislation by Mr. Russ Peotter, the Director of Production at Channel 10. Mr. Peotter has every right to say what he wants to say but, never during the course of our deliberations or since then, has he ever come to me to ask for clarification of my position on this. I have always encouraged the merger of these two entities as far back as 1966. At the very least, I think Mr. Peotter could have addressed his concerns to me directly instead of presenting this misinformation to his staff at a staff meeting of Channel 10. I think that is important to state for the Record that that has gone on.

I am in favor of this merger and for the Record, I think some of these safeguards have to be put into the Legislative Record because there was resistance to putting similar safeguards into the law for the Channel 10 employees, I think having on the Legislative Record will go a long way to addressing the situation.

Representative Oliver from the Education Committee wrote a letter to Mr. Rob Gardiner, the General Manager of Channel 10, asking a number of questions. I would like to read into the Record the questions and responses from him, in part, from the letter that he has responded to dated March 24, 1992:

"What is the proposed level of staffing for MPBC?" That is the Maine Public Broadcasting Corporation, the new corporation that will come into existence upon the effective date of this legislation and the merger of the two entities. "The staffing level will be the same as today's combined staffs. The current staff level at WCBB is 42 full-time and 11 regular part-time personnel; at MPBN the levels are 64 full-time and 9 regular part-time personnel. The MPBC Trustees have publicly committed to guaranteeing all of those individuals employment for the first year. This guarantee is firm and is based on the fact that the MPBN staff has been reduced by fifteen positions over the last eighteen months; that organization is now operating very short-handed.

Combining the staffs will result in only a few redundant positions. We believe only about six individuals will be required to assume new job assignments as a result of unification and we have plans to assign all six to closely related positions for which they are well qualified. One reason the number of redundant positions is not larger is that we plan to operate WMEA-TV (Channel 26) as the beginning of a second, unduplicated program service so that viewers will gain a choice of public television programs every hour of the day. All the positions in programming and operations will, therefore, continue to be needed. Experience in operating the unified system may lead to other changes that we cannot forecast accurately today, but we are certain that all current employees will be needed for as long as they want to stay with MPBC.

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